

UNITED STATES DISTRICT COURT

APR 14 2010

SOUTHERN DISTRICT OF TEXAS

David J. Bradley, Clerk of Court

HOUSTON DIVISION

H-10- 233

UNITED STATES OF AMERICA

§ CRIMINAL NO.

v.

§ 18 U.S.C. § 1343

ROGELIO "ROY" IBANEZ, JR.

§ 18 U.S.C. § 664

Defendant.

§

INDICTMENT

THE GRAND JURY CHARGES:

At all times material to this Indictment:

COUNTS ONE - SIX  
(Wire Fraud)

A. INTRODUCTION

1. Defendant ROGELIO "ROY" IBANEZ, JR. was an attorney who lived in Mission, Texas.
2. Defendant IBANEZ owned a title company, Southern Star Title Company L.L.C. ("Southern Star Title"), located in Edinburg, Texas. The title company conducted real estate "closings" for buyers and sellers of homes. As part of the closings, the title company received money that belonged to other people. The title company was obligated to keep that money safe in "escrow accounts" while the

closings were in progress, and then to disburse the money according to settlement instructions.

3. Defendant **IBANEZ** also operated a law practice in McAllen, Texas, called The Law Firm of Roy Ibanez. Defendant **IBANEZ** conducted real estate closings at his law office that were separate from those done at his title company. Defendant **IBANEZ** received money that belonged to other people during these closings. Defendant **IBANEZ** was obligated to keep the money safe in “trust” accounts and then disburse it according to settlement instructions.

4. Defendant **IBANEZ** also was a major owner of a bank in McAllen, Texas, called Bank of South Texas. Defendant **IBANEZ** directed that all of the bank’s real estate closing take place through his law office.

5. Defendant **IBANEZ** also held money in his law firm accounts that belonged to clients of the law firm, including a partnership called Y.D.A. Investments.

6. Defendant **IBANEZ** was also executor of the estate of Rutilo Vargas Amaro and trustee of a trust for the benefit of his two minor daughters.

7. Defendant **IBANEZ** also owned real estate and other investments through a business called Santo Andrei Ltd.

**B. THE SCHEME TO DEFRAUD**

8. From in or about 2001 through in or about March, 2009, in the McAllen Division of the Southern District of Texas, and elsewhere, the defendant,

**ROGELIO "ROY" IBANEZ, JR.,**

did knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations and promises.

**C. THE MANNER AND MEANS OF THE SCHEME**

9. It was a part of the scheme that defendant **IBANEZ** would and did falsely represent that he would safeguard money belonging to his law firm clients and disburse it as they intended and according to settlement instructions.

10. It was a further part of the scheme that defendant **IBANEZ** would and did take money from his law firm's bank accounts that belonged to others, without informing them, and used it for purposes other than for what the money was intended, including to benefit his own personal business interests.

11. It was a further part of the scheme that defendant **IBANEZ** would and did direct employees of his law firm to transfer money out of Southern Star Title escrow accounts without the knowledge or approval of title company employees or the persons and entities for whom the money was being held.

12. It was a further part of the scheme that when confronted about missing

money, defendant **IBANEZ** would and did falsely claim it had been taken by mistake and then continued to take more money.

13. It was a further part of the scheme that defendant **IBANEZ** would and did mislead the Vargas daughters into believing he was holding money in trust for them long after he spent all the money.

14. It was a further part of the scheme that when he was pressured to return missing money, defendant **IBANEZ** would and did replace it with money that belonged to other people.

#### **D. THE EXECUTION OF THE SCHEME**

15. On or about the dates set forth below, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant did transmit and cause to be transmitted in interstate and foreign commerce writings, signals and sounds, that is, the defendant caused the entities listed below to wire transfer the following sums of money:

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>From</u>	<u>To</u>
1	1/9/08	\$204,383.56	Southern Star Title Escrow Account act. 140012672 First National Bank, Edinburg, Texas	South Texas Consolidated Energy LLC act. 51332795 Texas State Bank, Harlingen, Texas

<u>Count</u>	<u>Date</u>	<u>Amount</u>	<u>From</u>	<u>To</u>
2	6/10/08	\$40,000.00	Southern Star Title Escrow Account act. 140012672 First National Bank, Edinburg, Texas	Law Office of Roy Ibanez Real Estate Trust IOLTA act. 2524805 Lone Star National Bank, McAllen, Texas
3	7/9/08	\$200,000.00	Southern Star Title Escrow Account act. 140012672 First National Bank, Edinburg, Texas	Law Firm of Roy Ibanez IOLTA act. 2500607481 San Antonio National Bank, Edinburg, Texas
4	7/22/08	\$100,000.00	Southern Star Title Escrow Account act. 140012672 First National Bank, Edinburg, Texas	Law Firm of Roy Ibanez IOLTA act. 2500607481 San Antonio National Bank, Edinburg, Texas
5	2/19/09	\$65,035.83	The Law Firm of Roy Ibanez act. 2500610314 San Antonio National Bank, Edinburg, Texas	Bank of America Richmond, Virginia beneficiary account 004130001470 to payoff loan 0022096200
6	2/19/09	\$82,132.21	The Law Firm of Roy Ibanez act. 2500610314 San Antonio National Bank, Edinburg, Texas	JP Morgan Chase Bank Tampa, Florida for Carrington Mortgage Services LLC, Santa Ana, California, act. 758673552

In violation of Title 18, United States Code, Sections 1343 and 2.

**COUNTS SEVEN - ELEVEN**  
**(Theft or Embezzlement from Employee Benefit Plan)**

On or about the dates set forth below, in the McAllen Division of the Southern District of Texas, the defendant, **ROGELIO “ROY” IBANEZ, JR.**, did embezzle, steal and unlawfully and willfully abstract and convert to his own use, in the

approximate amounts shown in each count below, the moneys, funds, securities, premiums, credits, property and other assets of the Southern Star Title Company 401(k) Plan, an employee pension benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974, and of a fund connected with such plan:

<u>Count</u>	<u>Date</u>	<u>Amount</u>
7	6/15/08	\$913.38
8	6/30/08	\$773.00
9	7/16/08	\$799.48
10	7/31/08	\$795.25
11	8/15/08	\$487.33

In violation of Title 18, United States Code, Sections 664 and 2.

**A TRUE BILL:**

ORIGINAL SIGNATURE ON FILE

FOREPERSON OF THE GRAND JURY

José Angel Moreno  
United States Attorney

By:

  
JOHN R. LEWIS  
Assistant United States Attorney